

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Graham & Graham Properties Trust	:	
	:	Case No. C-1-00-922
Plaintiff	:	
	:	District Judge Susan J. Dlott
v.	:	
	:	ORDER DENYING MOTION TO
OXY USA Inc.	:	EXCLUDE PLAINTIFF'S
	:	EXPERT OPINION EVIDENCE
Defendant	:	

This matter comes before the Court on Defendant OXY USA, Inc. ("OXY")'s Motion to Exclude Plaintiff's Expert Opinion Evidence. (Doc. #39.) For the reasons set forth below, OXY's motion is **DENIED WITHOUT PREJUDICE**.

The facts of this case are fully set out in the Court's two previous orders and do not bear repetition here. This motion concerns findings and opinions made by the environmental consulting agency ("SRW") that Plaintiff Graham & Graham Properties Trust ("the Trust") hired to conduct a site investigation to begin voluntary clean-up efforts after contamination was discovered on the Trust's property. OXY moves to exclude from evidence two opinions made by Michael Weinstein and Keith Egan of SRW, individuals that the Trust has identified as expert witnesses to call at trial. Weinstein and Egan opine that (1) OXY, through its predecessor ("Levey"), placed contaminated fill material on the Trust's property and (2) the contaminated property poses a risk to human health. (Doc. #39 exh. A.)

As this case has moved beyond the summary judgment stage without reference to these opinions, OXY's motion to exclude Plaintiff's expert opinion evidence is **DENIED WITHOUT PREJUDICE** and may be refiled as the case proceeds to trial.

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge